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REMARKS

The Applicant notes that a certified copy of the priority document is still required in order to perfect the priority claim and that the drawings on file are approved.

This application is rejected under 35 U.S.C. § 112, first paragraph, for the reasons noted in the official action. The inadequate written description rejection is acknowledged and respectfully traversed in view of the following remarks.

The Examiner states "it is not possible to anisotropically etch a material independent of that material's crystalline planes". The Applicant respectfully disagrees with this statement. The Applicant respectfully submits that, contrary to this statement, it is possible to anisotropically etch a material independent of that material's crystalline planes. For example, deep reactive ion etching is one manner of doing so.

The Applicant complied with the Examiner's request by clarifying that the mirror surface is positioned internally within the body, and only that portion of the selected crystalline plane required as the mirror surface being exposed. It is believed that a lack of clarity with respect to this issue may possibly have lead to the raised rejection under 35 USC 103.

Next, claim 45 is rejected, under 35 U.S.C. § 103, as being unpatentable over Stanley '500, in view of Stanley '658 and Madou. The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the following remarks.

It is believed that the 35 USC 103 rejection may have been addressed by the amendment set forth above relating to the mirror surface being positioned internally within the body, and with only that portion of the selected crystalline plane required as the mirror surface being exposed.

Due to the election requirement, the Applicant's arguments regarding this application are restricted to the embodiment illustrated in Figure 21. The switching assemblies from the Applicant's application are non-elected claims which will be dealt with in a subsequent continuation application.

The primary reference that the Examiner is relying upon is the Stanley `500 reference entitled "[c]antilever beam radiation deflector assembly". This device, as illustrated in Figure 3, does not meet the limitation of claim 45, as amended. The mirror does not meet the limitation that "only that portion of the selected crystalline plane required as the mirror surface being exposed". It is respectfully submitted that it is not possible to meet this limitation without having the mirror fixed in position. In order to follow the teachings of the Stanley `500 reference, an entire cantilever arm must be etched, eliminating the selectively described.

The Stanley `658 patent is entitled a "Radiation Deflector Assembly" and is in a similar arrangement. The mirror does not meet the limitation that "only that portion of the selected crystalline plane required as the mirror surface being exposed". In order to follow the teachings of the Stanley `658 reference, an entire cantilever arm must be etched, eliminating the selectively described. The deflector is described, in the Stanley `658 reference, as being a "cantilevered arm". In terms of formation of the arm, the reference indicates in column 1, at line 60:

It is particularly convenient if the deflector is integrally formed with the substrate. This can be achieved using conventional etching techniques or laser etching technology.

The Madou reference summarizes known etching techniques. However, the Applicant respectfully submits that the combination of Madou with either the Stanley `500 and/or the Stanley `658 references does not appear to result in the presently claimed invention.

It is respectfully submitted that it is inconsistent for the Examiner to argue that it is "not possible" to do (on the one hand), while arguing that it would be "obvious" to do so (on the other hand). If the Applicant is doing what the Examiner conceives as not being possible, how can it possibly be considered as "obvious"? The Applicant respectfully submits that the above would in fact suggest that the presently claimed invention is not obvious, but is inventive and patentable, in view of the applied art. According, the Applicant respectfully submits that the presently claimed invention is not obvious in view of the applied art or any of the remaining art of record in this case and all of the raised rejections should be withdrawn at this time.

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If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Stanley `500, Stanley `658 and/or Madou references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

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In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as First Class Mail in an envelope addressed to: Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. December 9, 2003.

By: 
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